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ABSTRACT

This guide is intended to answer questions from parents, students, community members, and school staff members concerning the Title IX requirement that schools provide equal educational and employment opportunity for both sexes. Compiled for the Los Angeles Unified School District, the answers and comments contained in this paper are potentially valuable to other school districts as well. The major areas covered include student activities, athletics, student organizations, courses, student and staff employment, school facilities, student awards and honors, physical education, and textbooks and instructional materials. Also discussed are counseling materials and practices, student dress codes, student records, sex education, discipline, scholarships, pregnant students, and grievance procedures. (Author/DS)

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Office of Special Projects

TITLE IX QUESTIONS, ANSWERS AND COMMENTS

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FOREWORD . . .

Many questions have arisen from staff, students, parents and other community members related to the Title IX requirement that the district provide equal educational and employment opportunities for both sexes. In this publication, the Office of Special Projects has attempted to provide principals and other selected staff a resource for answers to those questions most commonly asked.

It should be emphasized that these answers are based on an attempt by the district to be consistent with the Office for Civil Rights' interpretations of what the regulations require. In some cases they represent progressive steps in achieving ultimate goals. Future directives from the Office for Civil Rights or judicial decisions may alter certain answers. As revisions occur, they will be issued to update this publication.

No attempt was made to answer all questions related to Title IX. Questions concerning the employment process, except in those areas which were of special significance to the administrator in charge at local sites, can be answered most appropriately by the Affirmative Action Program Section - (213) 625-5256. Questions about the district's educational programs and activities that are not included or need further clarification should be referred to the Office of Special Projects - (213) 625-6444.

Elementary schools are in a unique position for eradicating the damaging effects of sex-role stereotyping on children in the educational program. It is critically important for those associated with elementary schools to become familiar with the impact of Title IX on the total educational

program so they can lay the groundwork that will effectuate equal opportunities for pupils at all grade levels.

While the number of concerns about interscholastic athletics, physical education course options, extracurricular activities, career counseling, the employment of students, scholarships, and programs for pregnant students resulted in a preponderance of secondary school questions, this should not be interpreted as an indication that elementary schools have less important responsibilities for eliminating sexism from the total educational program.

Appreciation is expressed to the members of the Title IX Resource Committee, the Title IX Research Committee, the Superintendent's Cabinet, the Association of Elementary School Administrators, the area superintendents, the Student Affairs Council and all other staff members for their comments and suggestions resulting from reviewing drafts of this publication.

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ACCESS TO SCHOOLS - SEX-SEPARATED

QUESTION: May a district operate sex-separated schools?

ANSWER: Nonvocational elementary and secondary schools are exempted from coverage of the admissions provisions (86.35). Therefore, a district may operate sex-separated nonvocational schools provided that such schools are in compliance with provisions covering student programs (Subpart D) and employment (Subpart E).

COMMENTS: Sex-separated schools must be comparable for males and females in terms of budget allocations, staff allocations, admissions criteria, curriculum offerings, extra-curricular programs, student policies and student services.

ACTIVITIES - BOYS' LEAGUE/GIRLS' LEAGUE

QUESTION: Must Girls' and Boys' Leagues be combined in all schools?

ANSWER: No. The present position of the district on this special situation is that, since every boy in a school is a member of the Boys' League and every girl is a member of the Girls' League, league membership is not a special honor or award. Further, each league receives comparable support from the school. The only difference in the two organizations may be in the services rendered to the school by the league and the interest activities sponsored by each league. Frequently, even these activities and services are jointly sponsored (e.g., Boys'/Girls' League dances, sports nights, etc.). Therefore, there appears to be no denial of educational opportunities by the existence of separate leagues, and the district is not requiring they be consolidated.

COMMENTS: The district is encouraging those schools that are presently taking steps to combine these two organizations into "student leagues." Other approaches to the resolution of this concern include permitting members of either sex to attend programs or participate in activities, to vote for candidates, and to run for office in the league of their choice. Obviously, the disadvantage of consolidating the Boys' and Girls' Leagues is that the resulting organization cannot be distinguished from the student body.

ACTIVITIES - BOYS' STATE/GIRLS' STATE

QUESTION: May schools assist in the selection of students for the Boys' State/Girls' State programs of the American Legion and the American Legion Auxiliary even though they are sex-separate activities?

ANSWER: Yes. According to Martin Gerry, Director of the Office for Civil Right, Boys' State and Girls' State are sponsored by organizations which satisfy the exemption requirements enumerated in Section 86.14(c). Furthermore, according to Gerry, these activities are "performing a service to the community by teaching the techniques of democratic leadership and governmental process."

COMMENTS: No academic credit may be given to students for participating in Boys' or Girls' State because this would give these activities "an educational, rather than service, orientation" and would, therefore, violate Title IX if these activities were carried on separately.

ACTIVITIES - BOYS' WEEK/GIRLS' WEEK

QUESTION: May schools continue to participate in separate Girls' Week and Boys' Week programs?

ANSWER: Yes. While there was general concurrence on the value of these programs in creating opportunities for students, there was concern among staff and students as to whether or not these programs were in violation of Title IX. After detailed study by staff and student groups, it was recommended that the continuance of the program as presently organized was more compatible with Title IX than the alternatives of combining or discontinuing the programs.

COMMENTS: The issues were considered and recommendations were made by the Citywide Student Affairs Council, the Title IX Research Committee and the Title IX Resource Committee. A special ad hoc committee convened to consider the combined recommendations of the groups. In relation to Title IX, the most important reasons for continuing the separate Boys' Week/Girls' Week programs were:

1. Abolishing both programs would be inconsistent with the basic intent of the regulations - to increase, not diminish, opportunities for students.
2. Combining both programs into a Students' Week had certain disadvantages:

   . . . The total number of participants who could be accommodated in a single week would almost certainly be less than the number that can participate in two one-week programs.

. . . In a Students' Week, the use of sex as a selection criterion would be a clear violation of Title IX, but if sex were not used to ensure a balanced representation of each sex, it could result in a disparate under-representation of one sex and thereby further diminish opportunities for the underutilized sex.

. . . The risk of stereotypic occupational roles would increase if choices for each job could be made from a pool of both sexes (e.g., male to police chief, minister, corporation president; female to executive secretary, nursing supervisor, teacher). With separate weeks, selection must be from the sex available, however untraditional the job might be viewed in terms of stereotyped sex roles.

Therefore, it was recommended that Boys' Week and Girls' Week be maintained as separate and equal activities and evaluated regularly for comparability in funding, allocation of personnel and variety and quality of experiences for the participants.

ATHLETICS - BOYS ON GIRLS' TEAMS

QUESTION: Must boys be allowed to try out for and play on girls' teams? For example, a school has a girls' interscholastic volleyball team but no volleyball team open to boys. Three boys want to participate in interscholastic volleyball and, since only a girls' team exists, insist on being allowed to try out for the team.

ANSWER: No. Only if <u>overall</u> athletic activities for members of the excluded sex have previously been limited must they be allowed to try out [86.41(b)]. Since this is not the case for boys in this district's interscholastic athletics program, they need not be given the opportunity as this would diminish opportunities for girls. However, every effort should be made to develop a volleyball program (interscholastic or intramural) which meets the needs of the boys as well as the girls.

COMMENTS: Males will often cite this kind of situation as reverse discrimination. The regulations, however, evaluate the totality of the interscholastic athletics program, not on a sport-by-sport basis. If girls were requesting permission to compete on a boys' volleyball team in a school in which no girls' volleyball team existed, their request would be valid since their overall opportunities in interscholastic athletics have been previously limited.

ATHLETICS - COMPLIANCE TIME (SECONDARY SCHOOLS)

QUESTION: Since the regulations provide a three-year adjustment period (until July 21, 1978) for full compliance in athletics and physical education in secondary schools, may we maintain the status quo until the end of this period so long as we develop plans for full compliance?

ANSWER: No. It should be emphasized that the regulations require compliance "as expeditiously as possible" [86.41(d)], and there should be no waiting period in any area in which there is no real barrier to achieving immediate parity for students of both sexes.

COMMENTS: Valid barriers to immediate compliance must be identified on the school checklist as well as a plan and timetable for overcoming the effects of such barriers.

ATHLETICS - CONFLICTING RULES

QUESTION: What if the rules of an organization such as the C.I.F. prohibit a district from complying with certain provisions of the Title IX regulations?

ANSWER: The recipient has three options:

1. Try to resolve the conflict by requesting that the organization change its rules to comply with the federal law.
2. State that it will not comply with the rules of the organization which are in conflict and await the reaction of the organization.
3. Withdraw from the organization.

COMMENTS: It is clearly stated in the regulations "that the obligation to comply . . . is not obviated or alleviated by any state or local law" [86.6(b)] nor "by any rule or regulation of any organization" [86.6(c)].

ATHLETICS - DISPLACEMENT OF FEMALE COACHES BY MEN

QUESTION: If all coaching assignments are thrown open to either sex, will this not further diminish opportunities for female coaches who might be displaced in the girls' program by males with more experience?

ANSWER: No. Selection criteria may not be used which have "a disproportionately adverse effect on persons on the basis of sex" unless it can be shown that the use of such criteria can "predict validly successful performance in the position in question . . ." (86.52). In a memorandum addressed to superintendents (Sept. 1975) the director of the Office for Civil Rights stated that "changes in . . . coaching assignments which have a disproportionately adverse effect on the employment opportunities of employees of one sex are prohibited . . . ." In other words, a school is obligated, so far as possible, not only to recruit coaches without discrimination based on sex but to overcome, whenever possible, the effects of past discrimination.

COMMENTS: Permitting males to displace females in the girls' interscholastic athletics program would be a violation of the intent of Title IX, except in those unusual instances in which no female desired the assignment or in which no females were qualified to assume a particular assignment.

ATHLETICS - FEDERAL AID

QUESTION: Our athletics program has never received federal aid of any kind, so how can the program come under the jurisdiction of Title IX?

ANSWER: Athletics are an integral part of the district's program and, therefore, are fully subject to the requirements of Title IX. Court decisions have consistently reinforced the inseparability of the school's athletic program from the total educational program and have, on that basis, required schools to provide equal opportunity.

COMMENTS: In the early discussion stages of Title IX, this question arose frequently - not just in relation to athletics, but in other programs which were not direct recipients of federal funds. The resolution has been consistent with the reasoning expressed in the above answer.

ATHLETICS - GIRLS ON BOYS' TEAMS

QUESTION: Can a girl be required to play on a girls' team in a school in which she is able to make the open team in the same sport?

ANSWER: No. Board policy provides that any student may try out for and compete on any "open" team. Therefore, a girl may compete on any team (with the exception of the boys' team contact sports of football, water polo and wrestling) which she can make on the basis of competitive ability.

COMMENTS: Title IX regulations provide that a school may operate "separate teams for members of each sex where selection for such teams is based upon competitive skill . . ." [86.41(c)(1)], which indicates that girls could be compelled, regardless of ability, to compete on girls' teams - even though such a restriction seems inconsistent with the requirement that the "levels of competition effectively accommodate the interests and abilities of members of both sexes" [86.41(c)(1)]. In this case, Board policy goes beyond the basic requirements of the federal legislation in providing wider participatory opportunities for students. It should be noted, however, that if a girl participates on an open team in a particular sport, she may not participate on a girls' team in the same sport during the same school year.

ATHLETICS - PAY FOR COACHES

QUESTION: Since the regulations specify that compensation of coaches is one of the criteria for determining whether athletic programs are comparable for males and females, does this mean that the coach of the girls' team must be paid the same as the coach of an open team in the same sport?

ANSWER: No. Section 86.54(b) provides that employees of one sex may not be paid at a rate less than that paid to employees of the opposite sex for jobs that require equal skill, effort and responsibility, and which are performed under similar working conditions. While two assignments may have similar titles (e.g., girls' basketball coach and basketball coach, open, A), they may be very different in terms of length of season, time spent coaching, other time required, number of contests, number of students participating, experience required, stress, impact of that activity on the school program and prevailing rates paid in other districts. However, if the assignments are equal in the skill, effort and responsibility required, pay cannot be differentiated solely on the basis of sex, according to Title IX.

COMMENTS: Coaching assignments of open teams are open to the most qualified person, regardless of sex. While the open team assignments are held preponderantly by males, there are some female open team coaches. As female coaches gain experience and expertise, more will become coaches of open teams.

ATHLETICS - STUDENT INTEREST

QUESTION: If an interest survey at a senior high school reveals a large number of girls are interested in a certain non-contact sport but no nearby schools sponsor girls' teams in that sport, would a school be justified in not sponsoring a girls' team until such time that it would have outside competition?

ANSWER: Yes. However, the school should make every effort to accommodate this interest by promoting such competition in other schools.

COMMENTS: Section 86.41(c)(1) mandates that "interscholastic . . . club or intramural athletics shall provide equal athletic opportunities for members of both sexes." If there was sufficient interest to warrant the establishment of an intramural program until an inter-school program developed, this would be an acceptable alternative.

CLUBS/ORGANIZATIONS (KNIGHTS, LADIES, ETC.)

QUESTION: Must a school combine the Knights and Ladies (or similar organizations) in which membership is an honor achieved by a relatively small but comparable number of male and female students?

ANSWER: Schools should develop plans, as expeditiously as possible, to combine such school-sponsored organizations and to establish non-sexist criteria for the selection of members.

COMMENTS: Since any "aid, benefits or services" may not be provided on the basis of sex [86.31(b)(2)], all honor societies must be open equally to male and female students. Criteria for selection must also be the same for students of either sex. Therefore, even after separate Knights and Ladies organizations are combined into a single "Knights/Ladies" organization, the selection criteria must be the same - even if such criteria produce a disproportionate number of males or females in the organization.

CLUBS/ORGANIZATIONS - NON-SCHOOL SPONSORED

QUESTION: To what extent may single-sex clubs and organizations sponsored by outside organizations be recognized and given some assistance by schools?

ANSWER: There are two groups of sex-segregated organizations whose membership practices are exempt from the Title IX regulations. The first group consists of those specifically enumerated in Section 86.14(b): YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls. The second group are those "voluntary youth service organizations" that meet the criteria (free from taxation and traditionally limited to members of one sex who are principally under the age of nineteen) in Section 86.14(c). While Kiwanis-sponsored Key Clubs have been exempted from Title IX because they meet these criteria, recent Board action requires that the membership practices of Key Clubs operating on LAUSD campuses may not exclude any person on the basis of sex because such a restriction would be a violation of the equal protection clause of the Fourteenth Amendment.

COMMENTS: The critical question here is the meaning of "voluntary youth service organizations." While the Office for Civil Rights is still in the process of clarifying this meaning, it appears that organizations that would qualify as voluntary youth service organizations would be those that are not primarily <u>academically</u>, <u>socially</u>, <u>professionally</u> or <u>vocationally</u> oriented.

CLUBS/ORGANIZATIONS - SCHOOL-SPONSORED (GENERAL)

QUESTION: Must school-sponsored clubs and organizations be open to students of either sex?

ANSWER: Generally, if a club or organization is school-sponsored, it must be open to either sex (86.31).

COMMENTS: The regulations provide exemptions for the sex-restricted membership practices of certain outside organizations that sponsor clubs or activities in which students of a school may be involved. There is less latitude, however, if an organization is school-sponsored. Organizations that restrict membership to one sex should make remediation plans as expeditiously as possible.

COMPARABLE FACILITIES

QUESTION: Our self-evaluation indicates that some of the school facilities such as the girls' gym and boys' gym are not comparable in terms of size, spectator capacity and equipment, but what can an individual school do to remediate this condition?

ANSWER: Any facilities that are not comparable for both sexes should be noted on the self-evaluation checklist so these conditions can be corrected if funds become available. Until then, however, the school can make appropriate facilities (e.g., gymnasiums) available on a comparable basis for both sexes. Because the gymnasiums may not be comparable facilities, step one would be to remove the "boys'" and "girls'" labels.

COMMENTS: The school is obligated to encourage sharing the use of facilities on an equitable basis where disparities exist so the interests and abilities of both sexes are effectively accommodated [86.41(c)(vii)]. It should be noted that sharing facilities on an equitable basis includes sharing <u>prime</u> time. In the case of locker rooms, shower facilities and rest rooms, inequities are more difficult to resolve in that they often require more time and money.

COUNSELING - GENERAL PROVISIONS

QUESTION: How can I evaluate my counseling in terms of the Title IX provision that counselors "shall not discriminate . . . on the basis of sex in the counseling and guidance of students . . ." [86.36(a)]?

ANSWER: A counselor might use questions such as the following as guidelines:

Do I counsel males and females in the same manner regarding career/vocational choices?

Do I use only those counseling materials that I have examined for freedom from sex bias?

Do I neither encourage nor discourage students from enrolling in certain courses purely on the basis of sex?

Do I encourage all students to make career, academic and personal choices on the basis of individual abilities, interests and values rather than on the basis of sex?

Do I report any information to my principal regarding instances of sex discrimination that I have encountered in the policies or practices of a school?

Have I reviewed course enrollments by sex and found that any disproportionate enrollments (80% or above of students of one sex) are not due to sex discrimination in counseling or counseling materials?

COMMENTS: Counselors sometimes unintentionally serve as reinforcers and

perpetuators of sex role stereotypes by conveying to students their own stereotyped notions of appropriate goals. Particularly in career guidance counselors must be careful not to state or imply that certain occupations are more desirable, appropriate or "realistic" for students of one sex than the other.

COUNSELING - MATERIALS

QUESTION: As a counselor, how can I evaluate the testing materials I use for freedom from sex bias?

ANSWER: Section 86.35(b) states that you are required to "develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex." Tests included in the List of Recommended Tests Authorized for Use in the Los Angeles City Schools will be evaluated for sex bias by the Research and Evaluation Branch. The Counseling and Psychological Services Branch can provide the reactions of the Office for Civil Rights to many of the tests most commonly used.

COMMENTS: Materials used in counseling must be screened for evidence of obvious or subtle sex-linked messages on the "appropriateness" of occupations or interest areas.

COURSES - ENROLLMENT IMBALANCES

QUESTION: If, after notifying students that all courses are open to them, regardless of sex, certain classes are predominantly or exclusively composed of members of the same sex, must a school take steps to correct these imbalances?

ANSWER: When a particular class contains a substantially disproportionate number of individuals of one sex (80% or more) the school should take those steps necessary to assure itself that the disproportion is not the result of sex-biased counseling or the use of sex-biased counseling materials [86.35(c)]. If it is found that the enrollment is not the result of such counseling or the use of such materials but rather the result of the interests of students, no corrective measures need be taken.

COMMENTS: Course descriptions, course content and teacher attitudes may give strong messages to students regarding the "appropriateness" of certain courses for a particular sex. Efforts should also be made by school staff to modify stereotyped thinking on the part of parents and students regarding enrollment in courses.

COURSES - TITLES

QUESTION: May we continue our "bachelor survival" and "girls' glee" courses if we permit either sex to enroll?

ANSWER: The courses may be continued, but the names must be changed to titles that are not gender specific.

COMMENTS: Titles of courses that may indicate which sex is preferred for enrollment must be avoided. Even courses which are not gender specific but have strong traditional ties to one sex could be made more appealing to the previously excluded sex by title changes (e.g., sewing to textile arts).

COURSE OFFERINGS - PREREQUISITES

QUESTION: Must girls be admitted to advanced classes, formerly restricted to boys, if they have not had the prerequisites? Tenth grade basic electric shop is a prerequisite for advanced electric shop, which is offered in the 12th grade. Until this semester, all electric shop classes were offered only to boys. Three 12th grade girls have applied for advanced electric shop and request exemption from the prerequisite.

ANSWER: According to interpretations by Office for Civil Rights staff, the school may not deny the girls the opportunity to enroll in the advanced class on the basis of not having the prerequisites which, at the time, were unavailable to them. The teacher must provide "remedial action . . . necessary to overcome the effects of . . . discrimination" [86.3(a)] which previously excluded girls from enrolling in basic electric shop. After the transition period has elapsed for closing the time lag and 10th grade classes in electric shop are available to girls, all students can be held to satisfying the prerequisite.

COMMENTS: The critical issue here is that girls were excluded from the opportunity to enroll in basic electricity. This special case would require the teacher to provide whatever remedial action (special instruction, assistance, attention, etc.) necessary to give the girls a chance to complete the advanced course successfully.

COURSE OFFERINGS - VOCAL

QUESTION: Can a school have a "boys" chorus if it also has a "girls" chorus?

ANSWER: Yes. Section 86.34 (f) of the Title IX Regulations states that choruses may be formed on the basis of vocal range which has been interpreted to mean that a choral group may be limited to members of one sex providing that members of each sex are offered the same choral opportunities.

COMMENTS: Gender labeling of choral groups is now permissible, contrary to an earlier ruling by Martin Gerry, former OCR Director. Acting OCR Director, Albert Hamlin's ruling that public schools may sponsor all-boy choral groups without violating Title IX is "... contingent on girls' being offered the same choral opportunities as boys ..."

DRESS CODES - STUDENTS

QUESTION: Since the regulations prohibit discrimination against "any person in the application of rules of appearance," does this, in effect, mean that school dress codes cannot be enforced?

ANSWER: No. While the regulations prohibit discrimination based on sex in the application of rules of appearance [86.31(b)(5)], the regulations should be interpreted using a rule of reason. The interpretation should not be so strict as to disrupt the educational process. For example, a regulation requiring male students to wear slacks and female students to wear either skirts or slacks would not be a violation. Tuxedos, for example, at a junior high school graduation could, and very probably should, be designated as "inappropriate" for a junior high school graduation ceremony.

COMMENTS: The use of words in dress codes that are not gender specific should be encouraged as far as possible. Clothing that is "appropriate" or hair that is "neat" are likely to cause less confusion in interpreting this regulation. There is no intent in the law or the regulations to "erase all outside physical distinction between the sexes. . . " (Trend v. Perritt Civ. A. No. J74-235(R) USDC Miss. 1975).

ELIGIBILITY REQUIREMENTS - STUDENTS

QUESTION: The citizenship grade requirements at our school for inter-scholastic athletics eligibility are higher for girls than for boys because this is permitted by C.I.F. regulations. Is this legal?

ANSWER: Eligibility requirements for participation in any program or activity operated by the school may not differ on a basis of sex [86.31(b)(4)].

COMMENTS: The Blue Book/Brown Book rules are being rewritten to eliminate such inconsistencies. Until they are official, the school should equalize participatory requirements for both sexes. Title IX regulations prempt any local or state regulations.

EMPLOYMENT - BONA-FIDE OCCUPATIONAL QUALIFICATION

QUESTION: Since supervision at night games is a responsibility of my athletic coordinator and locker room supervision is a function of the coach of my open gymnastics team (which is all male), may I limit these assignments to male faculty members on the basis that sex is a bona-fide occupational qualification?

ANSWER: No. Section 86.52 specifically prohibits the use of any "criterion for any employment opportunity that has a disproportionately adverse effect on persons on the basis of sex . . . ." Section 86.61 specifies very limited employment opportunities (employment in a locker room or toilet facility used only by members of one sex) in which sex may be a bona-fide occupational qualification.

COMMENTS: While certain assignments may be regarded as involving risk (supervision at night events), the assumption that only males should experience such risks is not a bona-fide criterion for excluding women from these assignments. Although sex is a BFOQ for a locker room attendance, the major responsibility of a coach is not locker room supervision, and another person of the appropriate sex could be assigned that responsibility.

EMPLOYMENT - JOB TITLES

QUESTION: When can sex be specified in a job title or in a job specifications?

ANSWER: Only when it can be shown "that consideration of sex . . . is essential to successful operation of the employment function concerned" (86.61). Otherwise, no person can be subjected to discrimination based on sex in job assignments or classifications.

COMMENTS: Sex as a bona-fide occupational qualification has a very limited application and should only be used when it can be demonstrated that it is absolutely essential to a successful performance of the job. For example, it would not be essential that a counselor to work with unmarried mothers be female, and such a designation in recruitment would be inappropriate. Examples of a BFOQ are employment in a locker room or toilet facility.

EMPLOYMENT - STAFF ASSIGNMENTS

QUESTION: May teachers be selected or assigned by sex, as for example, assigning male teachers to older children and opportunity classes and female teachers to primary grades and kindergarten so long as pay and all employment factors are equal?

ANSWER: No. Section 86.51(2) provides that a district or school "shall make all employment decisions in any education program or activity . . . in a non-discriminatory manner and shall not limit, segregate or classify applicants or employees . . . because of sex."

COMMENTS: Every person involved in the employment process should be thoroughly conversant with the provisions of Subpart E of the regulations. Within schools, those persons who have responsibilities for staff organization or are in any way involved in making supplemental assignments should take those steps necessary to ensure that personnel understand all assignments, however untraditionally associated with one sex, are open without regard to sex.

EMPLOYMENT - STAFF (PRE-EMPLOYMENT INQUIRIES)

QUESTION: What pre-employment inquiries must I avoid in screening applicants?

ANSWER: A pre-employment reference to the marital status of an applicant for employment including whether such applicant is "Miss" or "Mrs." is specifically prohibited [86.60(a)]. Neither may an employer take any action in the employment process which discriminates on the basis of an applicant's: (1) potential marital, parental or family status [86.57(a)(1)]; (2) position as a wage earner or head of household [86.57(a)(2)]; (3) pregnancy or related condition [86.57(b)]. However, a "pre-employment inquiry as to the sex of an applicant for employment may be made but only if such inquiry is made equally of both sexes and if the result is not used in connection with discrimination" in employment [86.60(b)].

COMMENTS: Inquiries regarding marital status and number of dependents have been used in the past to screen out married women with children. True equality of employment opportunities without regard to sex must exist for all applicants for employment and employees.

EMPLOYMENT - STUDENTS

QUESTION: An employer offered employment opportunities for three girls and three boys and asked our work experience coordinator to assist in recruiting suitable applicants. Since the number of jobs is equally divided between males and females, may the school provide assistance in procuring these students?

ANSWER: No. The school cannot render assistance to any organization or person that discriminates on the basis of sex in employment practices [86.38(a)(b)].

COMMENTS: The proper solution in this situation would be to try to persuade the employer to offer six jobs to the six most qualified students on the basis of non-sexist objective criteria.

EMPLOYMENT - STUDENTS

QUESTION: May a school assist an employer who requests employment referrals by sex?

ANSWER: No. Section 86.38(a)(1) states that a school "shall assure itself that . . . employment (of students) is made without discrimination on the basis of sex . . . ."

COMMENTS: Job placement services which permit the indication of sex preference on jobs offered to students deliver explicit stereotypic messages to students as to appropriate vocations. Suggest to the employer that the most qualified candidates be interviewed regardless of sex.

EXTRACURRICULAR ACTIVITIES

QUESTION: May a school limit participation to one sex in school-sponsored extracurricular activities such as drill teams, cheerleaders and stage crews?

ANSWER: No. These are all school-sponsored extracurricular activities and must be open to either sex [86.31(a)].

COMMENTS: Sex differentiation in school-sponsored extracurricular activities institutionalizes a "hidden curriculum" which may strongly influence or limit an individual's options.

FACILITIES - PLAYGROUND

QUESTION: Considering the safety factor for boys and girls in elementary school, we find it advisable during lunch to allocate one portion of the playground to boys and the other to girls. Is this compatible with Title IX?

ANSWER: No, even though the noon activity may not be part of the instructional program. Section 86.34 specifies that a school shall not "carry out any of its program or activity separately on the basis of sex . . . ."

COMMENTS: Activities that occur at any time on the school site are subject to the regulations and, with very limited and specific exceptions, are covered by Title IX. Denying the use of a part of the playground to persons of one sex would probably be interpreted as differential treatment based on sex. However, activities may be sex separated if such separation is a result of student choice of activities. Noon leagues or activities may be formed on the basis of skills as determined by objective skills tests. If any activities during the lunch period involve undue risks for girls, they also involve similar risks for boys - and could not be justified for either sex.

FACILITIES - SHOWERS/TOILETS

QUESTION: Do differences in the privacy of facilities constitute violations of Title IX? In our school, girls have stall showers, and boys have group showers. Girls' toilets have doors, and boys' toilets do not. Several boys have complained that their right to privacy has been violated because of these disparities in facilities. What is my responsibility as a principal?

ANSWER: It is questionable that these disparities constitute a violation. Section 86.33 states that toilet, locker room and shower facilities must be comparable. Comparability would be based on criteria such as the ratio of the facilities (e.g., showers, toilets, lockers) to the number of students of each sex who use them and on the condition and working order of the facilities. Furthermore, since the trend is toward group showers in all new construction because of ease of maintenance, it would be difficult to justify the installation of stall showers for boys. If, in your judgment as principal, the lack of doors on boys' toilets is a concern that warrants remediation, you may request A & I funds from the Area Determined Needs Fund controlled by your area superintendent.

COMMENTS: Parents in some schools have complained of a reluctance by elementary school boys to use open toilets. This may be an important concern among parents and students, reflected by the fact that new school building construction includes doors on toilets.

FACILITIES - USE BY OUTSIDE YOUTH/ADULT GROUPS

QUESTION: May a school permit an outside group that limits its membership to one sex or is sponsored by an organization that limits its membership to one sex to use its playing field or any other facility if the group is not specifically exempt from coverage by the Title IX regulations?

ANSWER: If such facilities are normally available to community groups and organizations during school days, the evenings or on weekends, they should not be denied to groups solely on the basis that such groups have single-sex membership practices (e.g., Jr. Chamber of Commerce, pony tail leagues, Pop Warner, etc.).

COMMENTS: Section 86.31(b)(7) prohibits providing "significant assistance" to such non-exempt organizations. "Significant assistance" is that assistance which, if withdrawn, would threaten the existence of the program. It is improbable that the use of a playing field or a building facility when not needed for the regular school program would be providing "significant assistance."

FATHER-SON/MOTHER-DAUGHTER EVENTS

QUESTION: What is the district's policy on school-sponsored father-son/ mother-daughter events?

ANSWER: The Title IX regulations that prohibit a school from carrying out any "activity separately on the basis of sex" (86.34) or subjecting any person, on the basis of sex, to different treatment [86.31 (b) (4)], shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

COMMENTS: Although the Title IX regulation prohibit a school from carrying out any "activity separately on the basis sex" (86.34) the Education Amendments of 1976 modified Title IX to permit some sex restricted activities. The basic concern relevant to this question is the definition of "reasonably comparable." To be comparable both boys and girls should be provided with the same types of activities, similar locations of events, approximative budgets, same number of events, equivalent staff support, publicity, prestige and durations of events. "Reasonably comparable" activities for fatherless boys or motherless girls do not have to be provided although such children could be excluded from "father-son"

or "mother-daughter" events (provided boys and girls would both be excluded respectively). Many schools will want to encourage attendance by such youngsters by allowing them to attend such events alone, with an adult of the same sex, or by making an exception so that the parent of the "wrong" sex is allowed to to accompany the child. However, schools could not treat boys with one parent differently than girls with one parent, e.g., if fatherless boys are allowed to attend father-son events, then motherless girls would have to be allowed to attend the comparable mother-daughter event. Given the fact that one out of every six American children lives with only one parent or neither parent, schools will want to prevent exclusion or stigmatization of such children. Subsequently, schools may also wish to sponsor "parent-student" events instead of father-son or mother-daughter activities.

GRIEVANCE PROCEDURE - SCHOOL

QUESTION: As an administrator, how do I handle a complaint of an alleged violation of Title IX in my school?

ANSWER: Refer to Bulletin No. 4, Office of the Associate Superintendent (Halverson), January 6, 1976, pages 5 & 6 for the Title IX complaint procedure steps. Informal resolution is recommended whenever possible.

COMMENTS: The Office for Civil Rights and the district hope that complaints will be resolved informally whenever possible. The relatively simple three-step procedure outlined in Bulletin No. 4 was developed in response to Section 86.8(b) that requires the district to "adopt and publish grievance procedures for the prompt and equitable resolution of student and employee complaints . . . ."

HONORS/AWARDS - ATHLETIC

QUESTION: May we give a trophy to our outstanding male and outstanding female athletes?

ANSWER: Yes, but only if they are awarded on a basis of participation in athletic programs (e.g., interscholastic athletics) that are operated separately for members of each sex as permitted under the regulations. The awards, however, must be comparable.

COMMENTS: If the awards are based on performance in programs not operated separately, awards may not be given separately on the basis of sex. For example, an award could not be given to the outstanding male and female volleyball players on a coed volleyball team.

HONORS/AWARDS - HOMECOMING KING/QUEEN

QUESTION: May a school composed of both sexes have a contest to elect a homecoming queen?

ANSWER: No, unless the overall opportunities for both sexes are comparable. In this instance, the answer might be to have a homecoming king and a homecoming queen - or a single honor available to both sexes.

COMMENTS: This may seem inconsistent with the prohibition against sex-designated awards such as outstanding boy or girl or the prohibition against awarding scholarships based on sex. However, in the instances of these awards, the selection criteria are generally based on criteria that are closely related to the goals of the educational process (leadership, scholarship, service) and provide a definite follow-up advantage to the student in securing aids, benefits or services. In the case of homecoming queen and king, the winners are selected on the single criteria of peer popularity and the results of this honor are not likely to assist the winners in achieving the aids, benefits or services referred to in 86.31(b)(2).

HONORS/AWARDS - OUTSTANDING BOY/GIRL

QUESTION: May an honor or award such as "outstanding boy" be given so long as an equal honor or award is given for "outstanding girl" and identical selection criteria are used?

ANSWER: No. Benefits may not be awarded on the basis of sex [83.31(b)(2)].

COMMENTS: Outstanding students must be selected by valid criteria. The sex of the candidate is not a valid criterion. It is quite possible that the two outstanding students, as measured by objective criteria, might both be male or both female.

LIABILITY OF EMPLOYEES

QUESTION: Is the district subject to increased liability for accidents resulting from girls playing with bigger and rougher boys?

ANSWER: As always, liability does not change because of the makeup of the class. Reasonable safety precautions must be exercised in every activity regardless of the sex of the participants.

COMMENTS: Elementary teachers have already expressed concern over the safety factor in coed physical education and recess activities. The activity itself, together with the adequacy of the supervision, should be assessed and, if it jeopardizes the safety of the participants, should be deemed inappropriate for all students, regardless of sex.

NONCOMPLIANCE - SCHOOL

QUESTION: What happens when a complaint is filed with the Office for Civil Rights by a student or parent that a practice or policy at a school was discriminatory on the basis of sex?

ANSWER: According to the Office for Civil Rights, the complaint would be investigated. If there appeared to be no violation, the complainant would be so notified. If there were a violation, the school would be directed to "take such remedial action as the Director (OCR) deems necessary to overcome the effects of such discrimination" (86.3).

COMMENTS: It should be noted that "remedial action" deemed necessary gives wide latitude to the Office for Civil Rights in prescribing corrective measures, not only to change the policy or practice in violation, but to develop affirmative efforts to overcome the effects of the discrimination. Should the school refuse to take those steps required by the Director, the district could face loss of federal funds and/or court proceedings.

NOTIFICATION

QUESTION: What is a school's obligation for "continuing steps" to notify students, parents and employees that it does not discriminate against students or employees in the programs and activities it conducts?

ANSWER: At least once a semester a school should publish a statement of the district's policy [Bulletin No. 4, Office of the Associate Superintendent (Halverson), January 6, 1976, page 2, item III] in a school publication that reaches parents, students and staff (newsletter, school paper, local newspaper).

COMMENTS: While the district has completed the initial notification of all employees (by payroll insert) and students (leaflet distribution), schools are also required to implement "continuing steps" of notification [86.9(a)]. This has been interpreted as once a semester by OCR staff. Evidence of notification should be kept on file at the local school.

PHYSICAL EDUCATION - COED CLASSES - DEFINITION

QUESTION: What does "coed" mean in terms of physical education classes?

ANSWER: The most appropriate definition for Title IX is "open to both sexes." However, this should not be interpreted as mandating that a class must contain a specific ratio of males and females. It is possible to have a class composed entirely of one sex and not be in violation of the regulations so long as the class was open to both sexes and the class composition was not the result of sex-biased counseling or counseling materials. In any class in which enrollment is not based on student choice, compliance with Title IX would mandate that a reasonable male/female balance be maintained. However, where students have a choice of physical education classes, student interest may result in certain classes that are predominantly or exclusively made up of members of the same sex. So long as this is not the result of counseling designed to achieve this result, there is no violation of Title IX.

COMMENTS: The Title IX regulations avoid the use of the term "coed" - probably because of its many connotations to different people. "Coed" volleyball, for example, may be intepreted by some as teams consisting of approximatley equal numbers of each sex while, in complying with the regulations, such quotas are neither required nor necessarily desired. It would be less confusing if the term were avoided in describing course offerings and enrollments.

PHYSICAL EDUCATION - COED COMPLIANCE

QUESTION: Is it permissible in a junior high school to offer a boys', a girls' and a coed physical education class each period and let students choose the class they prefer?

ANSWER: No. This would not satisfy the requirement of Section 86.34 which provides that a school "shall not provide any course . . . separately on the basis of sex . . . including . . . physical education . . . ."

COMMENTS: While this might be an acceptable initial step toward compliance in a school which can validate reasons for postponing full compliance, ultimately (before July 21, 1978) all physical education classes must be open to members of either sex. Even if the "boys'" and the "girls'" classes were open to members of the opposite sex, the sex labeling of such courses would be an obvious violation of the regulations.

PHYSICAL EDUCATION - COMBINED CLASSES

QUESTION: Considering the controversy and problems of implementation, why weren't physical education classes exempted from the requirement that a school may not carry out any of its educational program separately on the basis of sex?

ANSWER: Physical education classes were specifically included in Section 86.34 because the goals of required physical education are the same for both sexes. It would be inconsistent to provide programs that differentiated, on the basis of sex, in achieving identical goals. Separate programs for males and females communicate sex-stereotyped expectations, and this could discourage students from fully exploring opportunities for personal and physical development.

COMMENT: The goals for physical education suggested by the Physical Education Framework for California Public Schools and enumerated in LAUSD Publication No. SC-720 (1973) are: to develop (1) motor skills, (2) physical fitness, (3) a positive self-image, (4) socially desirable behavior and (5) recreational interests. These goals, like those of other courses, can be most effectively developed in integrated, not sex-separated, classes.

PHYSICAL EDUCATION - CONTACT SPORTS

QUESTION: Since the physical education teachers in our school agree that soccer and softball are contact sports, may we conduct separate classes for boys and girls in these activities?

ANSWER: No. Even though some coaches believe that soccer and softball fall into the category of sports "the purpose or major activity of which involves body contact" [86.34(c)], they are not so regarded by the OCR.

COMMENTS: While there is the possibility of body contact in every team activity, the Office for Civil Rights has been very specific in limiting the definition of contact sports. However, on a basis of objective performance standards, there may be separate all-male or all-female soccer or softball teams - but not on a basis of these activities being construed as contact sports. These standards must, of course, be directly related to performance in a specific activity.

PHYSICAL EDUCATION - CONTACT SPORTS

QUESTION: Since Board rules permit females to compete on open interscholastic basketball teams on a basis of competitive ability, must all basketball teams in physical education classes be made up of members of both sexes?

ANSWER: The Board rule permits females to compete on open teams in interscholastic basketball - an activity defined by the Title IX regulations [86.34(c)] as a contact sport. However, this does not necessarily apply to this activity in physical education classes, and a school may or may not permit such participation.

COMMENTS: Title IX regulations neither mandate nor prohibit the separation of students by sex during participation. Title IX regulations define contact sports as: wrestling, boxing, rugby, ice hockey, football, basketball, and other sports, the major purpose of which involves bodily contact [86.34(c)].

PHYSICAL EDUCATION - GRADING

QUESTION: What is meant by the physical education regulation that states: "Where use of a single standard of measuring skill or progress . . . has an adverse effect on members of one sex, the (school) shall use appropriate standards which do not have such an effect" [86.34(d)]?

ANSWER: An example might be that at the beginning of a semester, the median performance for boys in a particular class would be ten push-ups and for girls, five. It would be inappropriate to require all students at the end of the semester to be able to do fifteen push-ups to get a particular grade since it would require substantially greater progress from girls than from boys to achieve the same grade.

COMMENTS: Each sex, as a group, is more proficient than the other in certain physical activities. It would be unfair to penalize members of one sex for not having these skills on the same level as the other sex.

PHYSICAL EDUCATION - GRADING ON SEPARATE STANDARDS

QUESTION: How can I have separate standards for measuring the progress of boys and girls in my physical education classes without making the boys feel my grading standards are unfair?

ANSWER: While it is true that the use of a single standard of measuring skill or progress that has an adverse effect on the members of one sex may not be used [86.34(d)], boys should be made to understand that physical education grades are valid when they represent progress, not just performance. Grades that are solely the result of performance would be indefensible for either sex.

COMMENTS: Grading based on effort and progress should be discussed with students at the beginning of the semester with students. If the average boy is able to do eight pull-ups at the beginning of the semester and the average girl is only able to do one, boys should be able to understand the unfairness to girls of a requirement that all students be able to do ten pull-ups for a passing grade at the end of the semester.

PHYSICAL EDUCATION - GROUPING TEST

QUESTION: May all students be given a general fitness test or a general strength test at the beginning of the semester and, on a basis of the results, be separated for instruction in all physical education activities for the rest of the semester?

ANSWER: No. In many cases this would result in all-male and all-female physical education classes. Section 86.34(b) specifies that "objective standards of individual performance" be used to group students. Objective standards that are appropriate for grouping students for volleyball, for example, would not necessarily be the same as those for track or gymnastics. Ability grouping must be done on an activity-by-activity basis. While ability grouping would be more likely to produce some sex-segregated activities within the class on the secondary level, the growth and development patterns of students at the elementary level would decrease the likelihood of sex-segregated physical education activities.

COMMENTS: Ability grouping may occur to some extent before classes are organized. For example, girls above the 75th percentile on a girls' performance test might be grouped with boys above the 75th percentile on a boys' performance test in a particular physical education class. However, within the class, additional grouping based on ability related to the activity to be taught would also be necessary.

PHYSICAL EDUCATION - LIMITED TO ONE SEX

QUESTION: What school physical education class may be limited to students of a particular sex?

ANSWER: None. Section 86.34 of the Title IX regulations states that a school may not "carry out any of its education program or activity separately on the basis of sex . . . including physical education."

COMMENTS: This does not prohibit grouping of students <u>within</u> physical education classes by ability or skill as assessed by objective standards of individual performance developed and applied without regard to sex, nor does it prohibit separation of students by sex within a class during <u>participation</u> in contact sports (wrestling, football, basketball). Elective classes may be made up of students of one sex, when this is by pupil choice rather than by limiting action of the school.

PHYSICAL EDUCATION - SEPARATE DEPARTMENTS

QUESTION: May we organize our physical education departments separately on the basis of sex?

ANSWER: No. While the regulations do not refer specifically to the administration of the physical education program within the schools, the Office for Civil Rights maintains they must be merged.

COMMENTS: Inasmuch as a school may not "carry out any of its education program or activity separately on the basis of sex" (86.34), the organization of a department on a basis of sex to carry out a non-sexist program appears inconsistent with the philosophy of the regulations. The regulations state, however, that athletic departments may be administered separately. When departments are merged, the appointment of a chairperson must be done on the basis of non-sexist criteria such as training and experience.

PHYSICAL EDUCATION - STATE MANDATED TESTS

QUESTION: Are the state mandated physical education tests a violation of Title IX?

ANSWER: No. The norms and the tests themselves are designed to have no adverse effects on a basis of sex and are deemed appropriate measures of physical fitness for each sex.

COMMENTS: The regulations are concerned only with tests of measurements of progress which have an "adverse effect on members of one sex . . . " [86.34(d)].

PHYSICAL EDUCATION - TEACHING PROBLEMS

QUESTION: As a male physical education teacher, I am concerned with activities in which students must be touched during instruction. For example, what if I am "spotting" girls during a gymnastics class and one of them accuses me of sexual advances?

ANSWER: It is wise to avoid situations that could give rise to such complaints. In this case, students could be taught to spot.

COMMENTS: Every teacher, whether performing duties in the classroom, shop, physical education or in supervision, may face such accusations and must use the good judgment necessary to minimize this possibility.

PREGNANCY/RELATED CONDITIONS

QUESTION: What is the school's obligation in counseling a pregnant student?

ANSWER: The school's obligation is to inform the pregnant girl (a) of the availability of the cyesis program, (b) that she has the option to participate in this special program or remain in the regular program, and (c) that her condition will be treated as any other temporary disability.

COMMENTS: No students may be forced to choose between participating in the cyesis program or leaving school. If the pregnant student finds it necessary to be homebound during portions of her pregnancy, she must be provided with the same services provided to students who are homebound for other medical reasons.

RECORDS - CUM CARDS

QUESTION: Many cum cards contain comments that could be interpreted as sexist, such as "very athletic for a girl." In view of Title IX's effort to eradicate sexism, would it be wise to eliminate or erase such remarks from cum cards?

ANSWER: No. While such remarks may reflect certain biases that occurred in the past, proper remediation would be to raise the awareness of teachers to the nature of sexist comments and their negative effects on students.

COMMENTS: Most of such comments are probably unintentional and result from long-established societal attitudes that take time to eliminate. Considerable progress in raising awareness to the impact of such comments is being made through staff development programs.

SCHOLARSHIPS - ATHLETIC

QUESTION: May a school assist in selecting students for athletic scholarships that are offered on a basis of sex?

ANSWER: Yes, to the extent that there exist "reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic . . . athletics" [86.37(c)].

COMMENTS: The school should assess whether male and female athletes at comparable levels of competition are afforded similar opportunities to obtain scholarships and, if not, urge grantors of such scholarships to provide such opportunities.

SCHOLARSHIPS - NON-ATHLETIC

QUESTION: If a sorority offers a college scholarship to the outstanding girl in the area of fine arts and a men's community service club offers an industrial arts scholarship to the outstanding boy in industrial arts, may the school select or assist in the selection of candidates for these scholarships?

ANSWER: The regulations say that the school may not "assist any . . . organization . . . which provides assistance to any . . . students in a manner which discriminates on the basis of sex . . ." [86.37(a)(2)], except as noted in other paragraphs (certain legal instruments, athletics) [86.37(b)(c)]. However, since the selection process for scholarships for the 1975-76 school year was already underway, no changes were recommended that would diminish such opportunities for students. In memorandum No. 20, April 22, 1976, issued by the Division of Educational Support Services, guidelines affecting scholarships for the 1976-77 school year were provided.

COMMENTS: Under the "pooling" concept, schools may administer scholarships which have been restricted to one sex by legal instruments (wills, bequests, trusts) provided that the overall effect of such sex-restricted scholarships does not discriminate on the basis of sex. This means that students must be selected on the basis of non-sexist objective criteria. These funds must then be awarded to the selected students in the order of their rank. For example, if a school ranked four students by objective criteria in the order of female, male,

female, male, but it had only two scholarships available restricted to males, it could: (a) try to negotiate the release of funds from the sex restriction, (b) try to procure an additional fund for the females and thereby equalize the opportunity, or (c) award scholarships to no student. It should be emphasized that these comments pertain to non-athletic scholarships which can be sex-restricted providing that "reasonable" opportunities exist for each sex.

SELF-EVALUATION RESPONSIBILITIES

QUESTION: What are my legal responsibilities as a principal after I have sent the Title IX Self-Evaluation Checklist to my area superintendent?

ANSWER: Responsibilities include: (1) monitoring remediation efforts in areas of noncompliance revealed by your school checklist [86.3(c)]; (2) maintaining a school file for at least three years on the self-evaluation and related materials [86.3(d)]; (3) notifying students, staff and parents on a "continuing basis" of the school's commitment to Title IX [86.9(2)]; and (4) assisting in resolving complaints alleging noncompliance [86.8(b)].

COMMENTS: Principals have a responsibility to monitor efforts to correct policies and practices that are not in compliance with Title IX and to keep a record of these efforts on file. The continuing steps to notify parents and students of the commitment to Title IX could be a once-a-semester announcement in appropriate publications (school paper, newsletter, local papers, etc.).

SEX EDUCATION

QUESTION: May students be separated on the basis of sex for the purpose of offering instruction in sex education (human reproduction)?

ANSWER: Yes. "Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls" [86.34(e)].

COMMENTS: The Title IX regulations neither prohibit nor require sex segregation for portions of classes which deal exclusively with human sexuality. If, however, students were separated in a health education or science class for the entire semester because the course contained a unit in human reproduction, this would constitute a violation of the regulation.

SPECIAL SCHOOLS - SEX SEPARATED

QUESTION: If sex-segregated courses, programs and other activities are prohibited by Title IX, are not sex-segregated special schools illegal?

ANSWER: No. Section 86.35(b) provides that sex-segregated nonvocational schools may be operated.

COMMENTS: Single-sex nonvocational schools may not discriminate on the basis of sex in providing comparable programs, services and facilities. Cyesis schools are offered to pregnant students on a <u>voluntary</u> basis and must offer programs comparable to those in regular schools.

TEXTBOOKS/INSTRUCTIONAL MATERIALS

QUESTION: Why aren't textbooks and instructional materials included on the Title IX Self-Evaluation Checklist?

ANSWER: While the Office for Civil Rights recognizes the seriousness of sex stereotyping in textbooks and curricular material, specific requirements in this area raise questions under the First Amendment (86.42).

COMMENTS: There are prohibitions against the use of sex-biased instructional materials (Calif. Education Code, Ch. 4, Div. 7). Since freedom from sex stereotyping in instructional materials is so closely associated with the entire goal of eradicating sexism from the educational program, the Title IX Resource and Research Committees scrutinize all district publications and materials for evidences of sex bias. If, because of budgetary constraints, teachers are forced to continue using sexist instructional materials, they should call biases of such materials to the attention of their students.

TEXTBOOKS/INSTRUCTIONAL MATERIALS - LAUSD

QUESTION: Are any special efforts being made in the Los Angeles Unified School District to assure that textbooks or instructional materials adopted or approved will be free from sex discrimination?

ANSWER: The Los Angeles Unified School District Board of Education, through a resolution in September of 1973, has committed the district to the elimination of sex discrimination in adopted or approved instructional materials before the advent of Title IX. Each textbook and instructional material evaluation committee is provided with a copy of the resolution, as well as an orientation which includes guidelines for recognizing sex discrimination in instructional materials.

COMMENTS: The procedure above is routine for districtwide textbook and instructional materials committees. The Textbook Services Section continually advises individual schools of the guidelines when they seek to acquire materials that are not on the district's list. Districtwide committees' recommendations are further reviewed by the assistant superintendent of the Instructional Planning Division, and textbooks considered for adoption are reviewed by members of the Board of Education. They are also put on display, prior to adoption, for review by teachers, administrators, parents, students and other community persons. As each textbook evaluation committee meets to consider new materials, they are also charged with the task of examining materials already on the list. Materials which are determined by the committee to be out of compliance with the provisions of Title IX are recommended to be discontinued.

TEXTBOOKS/INSTRUCTIONAL MATERIALS - TEACHER RESPONSIBILITY

QUESTION: What are my responsibilities as a teacher when the only approved textbooks or instructional materials available for a certain unit are sex-biased?

ANSWER: While the district and the state are making strong efforts to eliminate textbooks and other educational materials that perpetuate sex discrimination, the task of completely removing all such materials from classroom use has not yet been completed. The responsibility for neutralizing the effects of sex-stereotyping in such materials will fall to the individual teacher. This emphasizes the importance of teacher awareness from pre-kindergarten through adult education to those materials that reinforce sexism.

COMMENTS: There is considerable lag between the writing of a textbook and the time it gets into the hands of the students. Teachers who are aware of sexism in instructional materials can counteract their effects by encouraging students to evaluate the materials they use, collecting non-sexist supplementary materials, asking students to do research in appropriate areas, and by setting aside time for developing understanding of the role of women in today's society.

TREATMENT OF STUDENTS - PUNISHMENTS

QUESTION: Must violations of rules of behavior be treated the same for both sexes even if certain punishments appear more appropriate for boys than for girls?

ANSWER: Yes. Not only must the rules of behavior be consistent but also the punishments for violation [86.31(b)(4)].

COMMENTS: If males are suspended for smoking, females must be suspended for the same reason and for the same length of time. If grades make girls ineligible for participating in an activity, the same grading standards must be used in determining boys' eligibility.